

## Comments

## Timbisha Shoshone Tribe

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Barbara A. Durham  
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15 January, 1999

Dick Martin, Superintendent  
National Park Service  
Death Valley National Park  
Death Valley, CA 92328

Dear Superintendent Martin:

The Timbisha Shoshone Tribe would like these comments added to the Draft General Management Plan for Death Valley National Park. In particular to the proposed plan and alternatives pertaining to the Timbisha Shoshone Tribe.

TIMB1

The Timbisha Shoshone has been a federally recognized tribe without trust land for 17 years. Without a land base, it is difficult to conduct even the most basic activities of tribal government, or even to seek funding for those activities. It is also difficult to maintain tribal identity and to carry on cultural traditions with members who are dispersed by the need to live where there are jobs and homes.

The Timbisha Shoshone Tribe regard certain lands and natural formations as sacred, requiring the physical environment, water, plants and animals associated with these lands to be protected for religious and spiritual use.

The Timbisha Shoshone people are entitled to a congressionally authorized land base established within our ancestral homeland, including water, mineral and surface rights, held in trust by Congress for the exclusive use and occupancy of the Tribe. The Timbisha Shoshone Tribe's ancestral homeland includes the area now designed as the Death Valley National Park. Our proposal is for tribal rights to religious, spiritual and sacred land areas, establishing a venue to preserve the Tribe's cultural heritage, values and traditions and provides for renewed rights to manage and control its own lands. Tribal self-determination, social and economic development is tied to the acquisition of a land base. The Tribe's proposal adopts a cooperative plan with respect to federal lands currently managed by other federal agencies, or owned by private landowners, located adjacent to the Tribe's proposed reservation. The Timbisha Shoshone Tribe intends to manage its lands subject to land use policies consistent with the

## Responses

TIMB1. The National Park Service concurs with these statements and they have been appropriately incorporated into the "Timbisha Shoshone Tribal Homeland Draft Secretarial Report to Congress to Establish a Permanent Tribal Land Base and Related Cooperative Activities," the *Draft Legislative Environmental Impact Statement for the Timbisha Shoshone Homeland*, and the proposed legislative language.

## Comments

## Responses

TIMB2

Congressional purpose and other compatible uses being made of the land by NPS and private entrepreneurs.

The 3.4 million acres presently encompassing the Death Valley National Park comprises a substantial portion of the Tribe's ancestral homeland dating back thousands of years. The Timbisha Shoshone Tribe seeks to have some portion of its ancestral homeland returned to it by Congress for the historical breach of trust which occurred many times over since the first white contact in the Death Valley area nearly 150 years ago. The California Desert Protection Act vastly expanded the Death Valley National Monument without giving any consideration to the needs of the landless Timbisha Shoshone Tribe, whose members presently reside at the will of the NPS on a 40 acre tract of land within the confines of a National Park, in 6 adobes and 10 mobile homes. Areas added to the Park, include the Eureka Valley, Saline Valley area and the Panamint Valley, these areas represent historically documented portions of the Timbisha Shoshone Tribe's ancestral homeland, yet in one stroke of a pen, these lands were lost to the Timbisha people.

The Timbisha Shoshone Tribe has identified numerous sites for the use of the Timbisha people, including traditional religious and spiritually sacred sites, within and outside the park which deserve special protection as a matter of federal policy by bringing the sites under the direct management and control of the Tribe through the establishment of a federal reservation or through some other mechanism. A land base within the Park will provide opportunity for expansive, yet compatible economic development to accommodate the millions of visitors to Death Valley each year.

In the land negotiations, we are not only concerned about today and tomorrow. We are concerned about creating lasting opportunities for many generations of our people, far into the future. In January 1998 the Timbisha Shoshone Tribe returned to the negotiation table with the National Park Service and Bureau of Land Management to produce a report of recommendations for a land base for the Timbisha Tribe within our ancestral homelands. The report responds to the California Desert Protection Act 705(b) of 1994 which calls for the Secretary of the Interior, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, to conduct a study to identify lands suitable for a reservation within and outside the boundaries of Death Valley National Park. For the first time government to government consultation has occurred between the Tribe and the United States.

The Timbisha Shoshone Tribe hopes to regain a portion of ancestral homelands to prevent the ultimate extinction of the only historical Indian tribe in the Death Valley area.

Comments from the Timbisha Shoshone Tribe's Historic Preservation Committee are attached.

TIMB2. The National Park Service fully supports the recent draft report and will work with the Timbisha Shoshone Tribe and other agencies to realize the full intent of the report.

**Comments**

Sincerely,

A handwritten signature in cursive script that reads "Barbara A. Durham".

Barbara A. Durham,  
Tribal Administrator,  
Spokesperson on Land Negotiations  
for the Timbisha Shoshone Tribe

**Responses**

## Comments

January 15, 1998

Dick Martin, Superintendent  
National Park Service  
Death Valley National Park  
Death Valley, CA 92328

TO: Dick Martin, Superintendent, Death Valley National Park

FROM: Bill Helmer, Tribal Historic Preservation Officer, Timbisha Shoshone Tribe

SUBJECT: Comments in response to the Draft Environmental Impact Statement and General Management Plan, Death Valley National Park, California and Nevada

In 1996, the Timbisha Shoshone Tribe approved a Timbisha Shoshone Historic Preservation Plan, the creation of a Tribal Historic Preservation Office with a Historic Preservation Advisory Committee and Tribal Historic Preservation Officer, and the drafting of a Historic Preservation Ordinance. This historic preservation program will help protect the Timbisha Shoshone Tribe's ancestral homeland within and outside what is now called Death Valley National Park. The following comments concentrate on those elements of the Draft EIS which effect or could potentially effect the Timbisha Shoshone Tribe.

**Alternatives--Alternative 1: Proposed Action of Death Valley National Park**

TIMB3

p. 38: "Visitors in this landscape [wilderness] experience a primeval environment largely untouched by people." This sentence implies that the Timbisha Shoshone and other native peoples in the region did not interact and help shape the environment in areas which are now designated as "wilderness." However, for thousands of years the Timbisha Shoshone have interacted with this landscape in an ecologically sound manner. People taking care of the land helped create the wilderness which we see today.

TIMB4

p. 46: **Native American Access (sec. 705).** The text of this section of the CDPA should be stated here so that the full meaning of "access" is understood: "In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the park system unit or wilderness area in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people." As an alternative, the appropriate page number (p. 207) of the CDPA in the Appendix of the DEIS could be cited.

TIMB5

p. 51: **Future Planning Efforts.** Add: Co-Management Plan with the Timbisha Shoshone Tribe.

TIMB6

p. 60: **Noise and Overflights.** Overflight abuses have been occurring for decades. Specify the action which would be taken to minimize or eliminate adverse impacts to the public and wildlife.

## Responses

TIMB3. This sentence was modified to reflect that the Wilderness Act provides for wilderness areas to be lands largely "untrammelled by man," where the land retains its "primeval character and influence, without permanent improvements or human habitation," but may contain features of scientific, educational, scenic, or historical value. Elements of modern human occupation and use are not appropriate in wilderness areas, unless they meet the Wilderness Act criteria.

TIMB4. Text modified as suggested and citation to appendix included.

TIMB5. The list of future planning efforts has been updated to include cooperative management programs with the Tribe.

TIMB6. The National Park Service is proposing to eliminate one of the airstrips and study a secondary airstrip in Saline Valley and convert the Stovepipe Wells airstrip from a paved to a dirt strip. This alternative, if selected, would probably reduce private aircraft numbers within the Park.

Also see response EPA3.

TIMB7. The Park will consult with the Timbisha Shoshone Tribe in its fire management planning efforts.

TIMB8. The extent of the tribe's involvement in fire management planning, development of an inventory and monitoring program, and resource management will be detailed in the cooperative management agreement being prepared by the Department of the Interior and the Tribe.

TIMB9. Text modified as suggested.

## Comments

## Responses

TIMB7	p. 66-67: <b>Fire Management.</b> The Timbisha Shoshone have traditionally used fire as a management tool in Death Valley and other areas of their traditional homelands. Fire was used to encourage the growth of native tobacco, to clear springs and marshy areas of dense growth, and to promote the growth of certain types of seeds. Consultation with the Timbisha Shoshone Tribe should be an important part of a Park Service Fire Management Plan.
TIMB8	p. 67: <b>Inventorying and Monitoring.</b> The Inventorying and Monitoring Program should be developed in consultation with the Timbisha Shoshone Tribe.
TIMB9	p. 68: <b>Cultural Resources:</b> In the paragraph beginning "The park's resource management plan..." specify consultation with the Timbisha Shoshone Tribe in addition to "Native American tribes having affiliation with lands in the national park. This addition would allow the "Cultural Resources" section to be consistent with the following "Native American Interests" section.
TIMB10	p. 90: <b>Grazing/Range Management:</b> Although grazing is legally mandated at current levels according to the CDPA (sec. 306), specifics regarding the current grazing management plan should be stated in the proposed action. Are cattle allowed in riparian areas of the Park? If so, what are the current impacts? What cultural resources or endangered species are potentially threatened by cattle grazing the Park? What federal laws (i.e., the Endangered Species Act) are potentially being violated due to legally mandated grazing in the Park? If grazing continues at current levels, what actions can be taken so that full compliance of all environmental laws would be enforced?
<b>Alternatives--Alternative 3: Optional Management Approach</b>	
TIMB11	p. 106: The Timbisha Shoshone Tribe agrees with the need for conducting a sensitive resource analysis. However, since it is stated in this DEIS/GMP that "any mining activity within the park would permanently damage the natural environment" (p. 188), why isn't the acquisition of all mineral rights within the Park actively pursued?
<b>Affected Environment</b>	
TIMB12	p. 133: <b>Cultural Resources, Status of Archaeological Research:</b> "At present, the National Park Service is undertaking a three-year systematic, parkwide archeological survey of at-risk areas under a cooperative agreement with the University of California, Riverside." The Timbisha Shoshone Tribe should be consulted for this project. Many of the Tribe's traditional cultural properties may be "at risk," but these areas may not be known as "at risk" sites by the Park Service.
<b>Environmental Consequences--Alternative 1: Proposed Action</b>	
TIMB13	p. 169: The impacts of grazing at legally mandated current levels need to be made explicit.
TIMB14	p. 169: The Timbisha Shoshone Tribe has traditionally used the Saline Valley hot springs for healing and medicinal purposes. The impacts of the construction of a parking lot are not addressed. In addition, this alternative does not address a plan for Native American access "to protect the privacy of traditional cultural and religious activities...by Indian people."

TIMB10. The grazing activity that the National Park Service inherited from the Bureau of Land Management has been ongoing for over 130 years and its continuation is allowed under the California Desert Protection Act. Presently all Park resources subject to grazing impacts, including riparian and cultural resources, are receiving the same protection as was provided by the Bureau of Land Management. Sensitive resources will be inventoried and protective measures provided in the proposed grazing management plan. Some changes to the proposed action have been made to clarify some of the considerations that the superintendent might evaluate if restrictions are made to current grazing levels.

TIMB11. Comment noted. Mining is an allowable activity in Death Valley under NPS regulations. While mining does damage the natural environment, approval of mining activities may still occur if done in accordance with the standards provided in NPS regulations (36 CFR 9A). If the disturbance does not meet the approval standards, then the activity must be denied. Restoration requirements can mitigate some adverse effects of mining activities. Acquisition of all mineral rights would need to be pursued with appropriated funds. Currently, only limited funds are available. Following approval of the *Land Protection Plan*, budget requests will be made to seek funding to begin the proposed acquisition program.

TIMB12. The Park focused "at-risk" emphasis of this particular study on areas of high Park visitor use where there were noticeable impacts on both historical and archeological features. We did not consult with the tribe on this project to determine if there were additional sites that they wanted us to look at, primarily because of lack of money and time to look at all "at-risk" areas. The tribe's suggestion will definitely be part of a National Park Service / Timbisha Shoshone memorandum of understanding regarding cooperative management of traditional cultural and natural resource areas.

## Comments

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### Environmental Consequences--Alternative 3: Optional Management

TIMB15

p. 184: **Impacts on Cultural Resources:** In consultation with the Timbisha Shoshone tribe, an inventory of archaeological and ethnographic resources along the Eureka-Saline corridor should be conducted to determine if roadside camping adversely effects these resources

### Environmental Consequences--Sustainable and Long-Term Management

TIMB16

p. 188: It is stated: "Ecosystems do not recognize political boundaries; this fact may require the National Park Service to act upon external influences that could influence elements within the political boundary." External influences which may adversely effect the Park should be stated, i.e., the current and proposed mining operations of the Briggs mining development in the Panamint Range, the proposed expansion of Fort Irwin, the proposed construction of a High Level Nuclear Waste Depository at Yucca Mountain, and proposed future uses of the Nevada Test Site, to name a few. Is the Biosphere Reserve concept included in such sustainable and long-term management plans?

Sincerely,

*Bill Helmer*

Bill Helmer  
Tribal Historic Preservation Officer  
Timbisha Shoshone Tribe

## Responses

TIMB13. Currently, 1,105 animal unit months of grazing are authorized for the Hunter Mountain allotment. No authorized grazing is occurring on the other allotments. No state or federal endangered or threatened species are known to occur in the Hunter Mountain allotment. If cattle are significantly damaging resources they will be removed from that area. Other wetland areas within the Park have been protected from cattle. The Park Service is in full compliance with all environmental laws. Please see "Environmental Consequences, Alternative 2," for a discussion on impacts of cattle grazing.

TIMB14. Alternative 1 calls for the development of a site-specific plan for the Saline Valley that emphasizes protection of cultural and natural resources and environmental restoration. The bulleted list on page 76 of the 1998 draft are items that "may be included" within that plan. That plan will undergo public review and comply with all laws pertaining to natural and cultural resources and public involvement. Access for traditional cultural and religious activities by Indian people as provided for in Section 705 of the California Desert Protection Act could be considered during the site management plan development, or may be addressed on a case by case basis by the superintendent upon receipt of a request.

TIMB15. The Park would consult with the Timbisha Shoshone Tribe for assistance in determining these effects. Additional discussion of the cumulative impacts of external development activities was added to the alternative.

TIMB16. External influences are recognized in the draft plan under Relationship to Other Planning Efforts. The Biosphere Reserve is a designation that recognizes the value of the protection of desert resources. Such designation does not affect sustainable and long-term management plans. The Park is managed as a unit of the national park system under United States laws and NPS regulations and policies.